BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION

RONALD SHANE BRAKHAGE Claimant VS.	)	
	)	Docket No. 206,166
BLAZER SERVICES Respondent AND	)	
INSURANCE COMPANY OF NORTH AMERICA Insurance Carrier	)	

ORDER

Respondent appeals from a February 29, 1996 preliminary hearing Order wherein Administrative Law Judge John D. Clark awarded claimant preliminary benefits.

ISSUES

(1) Whether claimant is under the jurisdiction of the Kansas Workers Compensation Act.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based upon the evidence presented and for purposes of preliminary hearing, the Appeals Board finds that the Order by the Administrative Law Judge should be affirmed.

Claimant, a resident of Coffeyville, Kansas, went to the office of Kelly Temporary Services [hereinafter Kelly] in Coffeyville, Kansas, to seek employment. He was advised of a job at Jencast Foundry [hereinafter Jencast] located in South Coffeyville, Oklahoma. Claimant visited Jencast to determine if it was a place he would like to work. He then returned to Kelly and advised them that he would be interested in the job at Jencast. Representatives of Kelly informed claimant that he would be paid by respondent, Blazer Services, and claimant filled out paperwork for respondent at the Kelly office. He was then told to report for work at Jencast.

Respondent does not dispute the factual contentions of claimant but argues the Kansas Workers Compensation Act does not apply to this claim because claimant was injured in Oklahoma while working for an Oklahoma employer.

K.S.A. 44-506 provides in part that:

> "[T]he workers compensation act shall apply also to injuries sustained outside the state where: . . . (2) the contract of employment was made within the state . . . ."

Claimant was offered employment at Jencast by Kelly on behalf of respondent in the state of Kansas. Claimant accepted the offered employment at the Kelly office in Kansas. Claimant completed the paperwork required by respondent at the Kelly office in Kansas and was thereupon told to report to work. Claimant reported to work as instructed and received his paycheck through the mail from respondent. Respondent now contends that an agency relationship between it and Kelly has not been established. Respondent admits that an employer/employee relationship existed between claimant and respondent on the date of accident. Nevertheless, respondent disputes that the evidence establishes Kelly acted as the agent of respondent when it hired claimant. Respondent further argues that even if such an agency relationship is found to exist the Kansas Workers Compensation Act, nevertheless, does not apply to this claim. This position was not explained. Both arguments are without merit.

An employment contract is made in Kansas when the last act necessary for its formation is done in Kansas. *See* Smith v. McBride & Dehmer Construction Co., 216 Kan. 76, 79, 530 P.2d 1222 (1975), (citing Restatement of Contracts, § 74 (1932). Thus, a contract for employment is made in Kansas if an offer of employment is made and the employee accepts the offer while in Kansas. Further, it is a fundamental rule that when an offer is made through an agent, it impliedly authorizes an acceptance through that agent. 17 C.J.S. Contracts, § 45, pp. 690-91. Since Kelly was acting as respondent's agent at the time it offered claimant the job, claimant telling Kelly that he accepted the job was binding on respondent. Consequently, the last act to form the employment contract was claimant's acceptance. That acceptance occurred at the Kelly office in Kansas. Therefore, a Kansas contract of hire was created. *See* Morrison v. Hurst Drilling Co., 212 Kan. 706, 707, 512 P.2d 438 (1973); Hartigan v. Babcock & Wilcox Co., 191 Kan. 331, 332, 380 P.2d 383 (1963); Pearson v. Electric Service Co., 166 Kan. 300, 302, 201 P.2d 643 (1949). Thus, the Administrative Law Judge correctly found claimant's injury was covered under Kansas workers compensation law.

It is true, as respondent points out, that the record does not contain a contract between respondent and Kelly evidencing their relationship. Neither does the record contain the paperwork which claimant testified he filled out for respondent at the Kelly office. Nevertheless, the undisputed evidence is that after Kelly offered claimant a job at Jencast, which the claimant then accepted in the state of Kansas, he did, in fact, go to work at Jencast and received a paycheck from respondent. In its recent decision in the case of Chapman v. Beech Aircraft Corp., 20 Kan. App. 2d 962, 894 P.2d 901 (1995), the Supreme Court of Kansas reaffirmed the State's policy of liberally construing the Kansas Workers Compensation Act for the purpose of bringing employers and employees within its provisions and to provide the protections of the Act to both, citing K.S.A. 44-501(g). Consistent with that policy, the Appeals Board finds from the evidence that a prima facie case has been made for the existence of an agency relationship between respondent and

Kelly. Kelly had the implied authority to make claimant the offer of employment. The fact that claimant went to work and received a paycheck from respondent is certainly evidence of Kelly's actual authority to hire claimant on behalf of respondent. It is not necessary to know the exact details of the relationship between respondent and Kelly to find a Kansas contract of hire from the facts as stated herein. Accordingly, the requirements of K.S.A. 44-506 have been met. Whereas the contract of employment between claimant and respondent was made within the state of Kansas, the Kansas Workers Compensation Act applies to this claim.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge John D. Clark dated February 29, 1996, should be, and is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of May 1996.

BOARD MEMBER

c: Joseph Seiwert, Wichita, KS
Vincent A. Burnett, Wichita, KS
John D. Clark, Administrative Law Judge
Philip S. Harness, Director